

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO. 20-cv-757
	:	
2,100 POUNDS, MORE OR LESS, OF	:	
MEAT CARCASSES, PARTS OF	:	
CARCASSES, AND MEAT FOOD	:	
PRODUCTS, and 34,062 POUNDS, MORE	:	
OR LESS, OF MEAT FOOD PRODUCTS	:	
AND POULTRY PRODUCTS,	:	
	:	
Defendants <i>in rem</i>.	:	

ORDER STAYING ACTION AND ALLOWING LIMITED RELEASE FROM ARREST

WHEREAS, on February 10, 2020, the United States filed its Complaint (Docket Entry No. 1) commencing this action (the “Condemnation Action”);

WHEREAS, earlier, on November 19, 2019, in a separate, related action, *United States v. Miller’s Organic Farm and Amos Miller*, EDPA No. 19-cv-1435 (the “Injunction Action”), the Court entered an order for permanent injunction against Miller’s Organic Farm (“Miller’s”) and its owner-operator, Amos Miller (the “Injunction Order”);

WHEREAS, Miller’s sells its farm products only to members of its nationwide “Private Membership Association”;

WHEREAS, on February 14, 2020, in this Condemnation Action, the Court entered an Order (Docket Entry No. 3) authorizing the United States to arrest the defendant meat and poultry articles at Miller’s under Supplemental Rule C(3)(a)(1) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, which supplement the Federal Rules of Civil Procedure and apply to this *in rem* civil action;

WHEREAS, on February 20, 2020, the U.S. Marshals Service arrested/seized the defendant meat and poultry articles (consisting of (a) approximately 34,062 pounds of frozen product inventory that had been packaged before November 19, 2019, and (b) approximately 2,100 pounds of meat carcasses and parts that FSIS investigators observed and detained at Miller's in January 2020), but left the articles in place (frozen and stored) at Miller's pending a condemnation hearing;

WHEREAS, the defendant meat and poultry articles are subject to the Federal Meat Inspection Act, 21 U.S.C. § 601, et seq. ("FMIA"), and the Poultry Products Inspection Act, 21 U.S.C. § 451, et seq. ("PPIA") (collectively, "the Acts"), statutes that the U.S. Department of Agriculture's Food Safety and Inspection Service ("FSIS") enforces;

WHEREAS, an issue in this Condemnation Action has been whether Miller's and Amos Miller complied with Paragraph 14 of the Injunction Order by timely liquidating and properly distributing the defendant frozen inventory products, which remain at Miller's;

WHEREAS, on March 12, 2020, Anke Meyn sent the United States a Statement of Interest in this Condemnation Action, in which she represents, in part, that she has an interest in the defendant articles;

WHEREAS, Miller's and Amos Miller, though they have not formally filed a "Statement of Interest" in this action, have an interest in the defendant articles;

WHEREAS, on April 16, 2020, in the Injunction Action, the Court entered a Consent Decree between the United States and Miller's Organic Farm/Amos Miller ("the Consent Decree");

WHEREAS, Paragraph 8 of the Consent Decree contemplates that this Condemnation Action will be stayed for a sufficient period to permit Miller's and Amos Miller to comply with the Consent Decree's terms and conditions;

WHEREAS, Paragraphs 6(e) and 6(f) of the Consent Decree allow Miller's and Amos Miller to "liquidate" (that is, to sell and distribute) certain of the defendant articles in this Condemnation Action (the approximately 34,062 pounds of frozen products that were already in existence on November 19, 2019) to individuals who were Miller's Private Membership Association members on or before November 19, 2019, if Miller's delivers or ships the inventory directly to each individual member for the purchaser's personal consumption, but subject to the conditions stated in Consent Decree Paragraph 6, including that (1) distribution must occur within 90 days, which the interested parties (the United States, Miller's, Amos Miller, and Ms. Meyn) have agreed to interpret to allow distribution until August 20, 2020, which is 90 business days from entry of the Consent Decree, and (2) any such inventory that remains at Miller's after August 20, 2020 must be destroyed under FSIS' oversight; and

WHEREAS, counsel for the United States (AUSA Gerald Sullivan), for Ms. Meyn (Elizabeth Rich, Esq. and Joseph Macaluso, Esq.), and for Miller's/Amos Miller (Steven Lafuente, Esq.) have represented by email to the Court on May 1, 2020 that their clients propose and agree to the following provisions;

NOW, THEREFORE, this 1st day of May, 2020, **IT IS HEREBY ORDERED** as follows:

1. Proceedings in this Condemnation Action are STAYED until at least August 20, 2020 or further order of the Court.

2. Regarding the approximately 34,062 pounds of defendant frozen product inventory that pre-existed the November 19, 2019 Injunction Order in the Injunction Action and that currently remains under arrest at Miller's, THE ARREST SHALL BE INCREMENTALLY VACATED only: (a) as to such of those articles that FSIS approves for distribution under Paragraph 6 of the April 16, 2020 Consent Decree in the Injunction Action; and (b) when and as FSIS approves such distributions on a rolling basis before August 20, 2020.

3. Defendant articles that FSIS does not approve for such distribution SHALL REMAIN UNDER ARREST and shall not be moved at or from Miller's pending a condemnation hearing in this action or further order of the Court.

4. Notwithstanding Supplemental Rule E(5)(c), no payment of "costs and charges of the court and its officers" shall be required to be paid in connection with such limited vacating of the arrest and release of the defendant articles of pre-existing inventory in order to allow permitted distributions to occur under the Consent Decree in the Injunction Action.

BY THE COURT:

/s/ Edward G. Smith

HONORABLE EDWARD G. SMITH
Judge, United States District Court